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Attorney for Plaintiff EVERFLOW
TECHNOLOGY CORPORATION

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

EVERFLOW TECHNOLOGY
CORPORATION, incorporated under the
laws of the Republic of China (Taiwan),

Plaintiff,

vs.

MILLENNIUM ELECTRONICS, INC., a
California corporation,

Defendant.

Case No.: C 07-05795 JF (HRLx)

**REPLY BRIEF IN SUPPORT OF
APPLICATION FOR ORDER OF WRIT
OF ATTACHMENT; DECLARATION
OF PETER CHIU**

**Date: February 8, 2008
Ct. No.: 3, Fifth Floor
Time: 9 a.m.**

1. INTRODUCTION

EVERFLOW has applied for a Writ of Attachment and has supplied compelling evidence that it is owed no less than \$1,894,176.27. Defendant MEI has responded (four weeks later) with an Opposition based on inadmissible evidence which, if anything, unequivocally admits that MEI indeed owes EVERFLOW – and has owed for some time -- the sum of \$1,420,897.12.

This Court should grant the Application and order the issuance of the Writ in the amount requested.

2. MEI's OPPOSITION IS UNSUPPORTED BY ADMISSABLE EVIDENCE.

MEI's two-paragraph Opposition was filed and served with a Declaration from James Loro with one attached exhibit. As more specifically set out in Plaintiff's Objections to Evidence filed concurrently herewith, the evidence in opposition is wispy. Mr. Loro provides no foundational basis, other than that he is President of MEI. Further, and in the same vein, the one exhibit attached to his declaration is given a name but is otherwise offered without any foundation, authentication, or reason to treat it as anything other than hearsay.

The failure to supply any admissible evidence is striking in that the few points attempted in Mr. Loro's declaration all relate to fact-intensive "defenses" of sorts. For instance, Paragraph 2 of the Loro Declaration asserts that the shipments were late "thereby causing losses to MEI and to its customers." Though baldly asserted, the Declaration does not provide any further clarification concerning what shipments were late, how late, what kind of losses did this cause, how much were those losses, and who suffered those losses? All of this information would be expected as a minimum factual basis for the bare assertion made. In contrast, the Court is provided nothing further.

In the same way, assertions are made in the Declaration concerning the "holding [of] tooling that has been paid for" and "product[s] that [were] never shipped" which lack the required specificity. MEI's failure to supply even a modicum of admissible evidence in support of its vague assertions forcefully argues, if nothing else, that MEI is likely to lose, and that EVERFLOW is likely to succeed, in the underlying claim, a criterion for the Writ Application.

3. CONCLUSION

EVERFLOW has requested a Writ in the amount of \$1,894,176.27, and has supplied ample evidence to support this dollar amount and the likelihood of EVERFLOW's eventual success at trial. In its thin Opposition, MEI succeeds only in admitting that it owes EVERFLOW (in the form of significantly aged invoices) the amount of \$1,420,897.12. EVERFLOW respectfully suggests that EVERFLOW has met its burden of proof and requests that the Court grant its Application.

Dated: January 25, 2008



MARK FANG

DECLARATION OF PETER CHIU IN SUPPORT OF APPLICATION

1. I, Peter Chiu, am President of Everflow Technology Corporation (hereinafter "Everflow"), a Tawainese corporation located in Taipei, Taiwan, R.O.C..

2. Evermodule Technology Corp. is Everflow's sister sharing common ownership.

3. Since Invoice No. EM070033, Everflow has also listed the name of this sister company on Everflow's invoices to Millennium Electronics, Inc.

4. Attached as Exhibit L are true and correct copies of the last three invoices listed in Exhibit K and on Defendants one exhibit. These are invoices numbered EM070067, EM070066, and EM070066.

5. The amounts listed on the Defendant's exhibit are owed to Everflow.

I swear under penalty of perjury under the laws of the State of California that the foregoing is true and correct and if sworn as a witness I could competently testify to the facts stated herein.

Dated: January __, 2008

(Original to be filed when received)

PETER CHIU

Exhibit L



EVERMODULE TECHNOLOGY CORP.

TAIWAN : 5F-2, No.12, Lane 270, Sec.3, Beishen Rd., Shenkeng Shiang,
Taipei,
Taiwan 222,R.O.C.

CHINA : Ge Keng Industrial Zone, Heng Li Town, Dong Guan City,
Guang Dong Province, China
TEL : 86-769-372-7161 FAX : 86-769-372-7163

COMMERCIAL INVOICE

NO . EM070065

Date : 09/26/07

INVOICE of VGA COOLER

For account and risk of Messrs.

MILLENNIUM ELECTRONICS INC.

~~671 E. BROKAW ROAD SAN JOSE. CA 95112~~

Shipped by EVERMODULE TECHNOLOGY CORP.

From CHINA

to HK

Marks&Nos.	Description of Goods	Quantity	Unit Price	Amount
MEI (IN DIA) PO:30191691 MEI P/N:MT2-10036 REV.A CUSTOMER P/N: 7120030500G Q'TY: 10PCS VENDOR:MEI INTERNATIONAL C/N:1-200 MADE IN CHINA	VGA COOLER R600 MEI PO#0008121	2,000 PCS	19.920	USD 39,840.00
	TOTAL :	2,000 PCS		USD 39,840.00

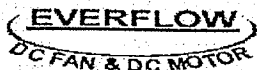
SAY TOTAL US DOLLARS THIRTY NINE THOUSAND EIGHT HUNDRED ANN FORTY ONLY ONLY.

EVERMODULE TECHNOLOGY CORP.

July Hw

(Authorized Signature)

Exhibit L-1



EVERMODULE TECHNOLOGY CORP.

TAIWAN : 5F-2, No.12, Lane 270, Sec.3, Beishen Rd., Shengkeng Shiang,
Taipei,
Taiwan 222,R.O.C.

CHINA : Ge Keng Industrial Zone, Heng Li Town, Dong Guan City,
Guang Dong Province, China
TEL : 86-769-372-7161 FAX : 86-769-372-7163

COMMERCIAL INVOICE

NO : EM070066

Date : 09/27/07

INVOICE of VGA COOLER

For account and risk of Messrs.

MILLENNIUM ELECTRONICS INC.

671 E. BROKAW ROAD SAN JOSE. CA 95112

Shipped by EVERMODULE TECHNOLOGY CORP.

From CHINA to HK

Marks&Nos.	Description of Goods	Quantity	Unit Price	Amount
MEI (IN DIA) PO:30191691 MEI P/N:MT2-10036 REV.A CUSTOMER P/N: 7120030500G Q'TY: 10PCS VENDOR:MEI INTERNATIONAL C/N:1-180 MADE IN CHINA	VGA COOLER R600 MEI PO#0008121	1,800 PCS	19.920	USD 35,856.00
TOTAL :		1,800 PCS		USD 35,856.00

SAY TOTAL US DOLLARS THIRTY FIVE THOUSAND EIGHT HUNDRED AND FIFTY SIX ONLY.

EVERMODULE TECHNOLOGY CORP.

(Authorized Signature)



EVERMODULE TECHNOLOGY CORP.

TAIWAN : 5F-2, No.12, Lane 270, Sec.3, Beishen Rd., Shengkeng Shiang,
Taipei,
Taiwan 222, R.O.C.

CHINA : Ge Keng Industrial Zone, Heng Li Town, Dong Guan City,
Guang Dong Province, China
TEL : 86-769-372-7161 FAX : 86-769-372-7163

COMMERCIAL INVOICE

NO : EM070067

Date : 09/28/07

INVOICE of VGA COOLER

For account and risk of Messrs.

MILLENNIUM ELECTRONICS INC.

671 E. BROKAW ROAD SAN JOSE, CA 95112

Shipped by EVERMODULE TECHNOLOGY CORP.

From CHINA to HK

Marks&Nos.	Description of Goods	Quantity	Unit Price	Amount
MEI (IN DIA) PO:PVG-780300 MEI P/N:MT2-10020 REV.D CUSTOMER P/N: 7124024100G-RH Q'TY:30PCS VENDOR:MEI INTERNATIONAL C/N:1-84 MADE IN CHINA	VGA COOLER R580 MEI PO#0008127	2,500 PCS	15.800	USD 39,500.00
MEI (IN DIA) PO:2100041656 MEI P/N:MT2-10020 REV.D CUSTOMER P/N: 7124024100GAYS Q'TY:30PCS VENDOR:MEI INTERNATIONAL C/N:85-151 MADE IN CHINA	VGA COOLER R580 MEI PO#0008129	2,010 PCS	15.800	USD 31,758.00
TOTAL :		4,510 PCS		USD 71,258.00

SAY TOTAL US DOLLARS SEVENTY ONE THOUSAND TWO HUNDRED AND FIFTY EIGHT ONLY.

EVERMODULE TECHNOLOGY CORP.

Judy Hu

(Authorized Signature)

Exhibit L-3

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF VENTURA

I, the undersigned, declare that I am a resident of the County of Ventura, State of California; I am over the age of 18 years and not a party to the within action; my business address is 215 E. Daily Drive, Suite 9, Camarillo, California 93010.

On **January 25, 2008**, I served the following document, **REPLY BRIEF IN SUPPORT OF APPLICATION FOR ORDER OF WRIT OF ATTACHMENT; DECLARATION OF PETER CHIU**, of which the original document, or a true and correct copy, is attached, by placing a copy thereof in a separate envelope for each addressee named hereafter, addressed to each such address respectively as follows:

Mark R. Figueiredo, Esq.
Jonathan H. Van Ee, Esq.
STRUCTURE LAW GROUP, LLP
1754 Technology Dr, Suite 135
San Jose, CA 95110
(408) 441-7500
(408) 228-8787
mrf@structurelaw.com
jve@structurelaw.com

☒ **(BY MAIL)** I deposited such envelope in the mail at Camarillo, California. The envelope was mailed with postage thereon fully prepaid. Executed on **January 25, 2008**.

☐ **(BY FACSIMILE)** In addition to regular mail, I sent this documents via facsimile to the above listed numbers.

☐ **(BY PERSONAL SERVICE)** Such envelope was delivered by HAND DELIVERY to the office of the addressee. Executed on _____.

☐ **(VIA CERTIFIED MAIL, RETURN RECEIPT)** Such envelope was delivered via certified mail, return receipt to all addressees listed on attached mailing list. Executed _____.

☐ **(STATE)** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☒ **(FEDERAL)** I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

I declare that I am readily familiar with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

January 25, 2008, at Camarillo, California.

Sarah McEachern
(Print Name)


(Signature)